REMARKS

Reconsideration of the application in light of the above amendments and the following remarks is respectfully requested.

Status of the Claims

Claims 4, 6-8, and 10-14 are pending. Claims 1-3, 5 and 9 were canceled by prior amendment. Claims 4, 8 and 12-14 have been amended. No new matter has been added.

Rejection under 35 U.S.C. §102(e) based on Kleider

Claims 4, 6-8 and 10-14 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,084,919 to Kleider et al. ("Kleider").

Kleider describes a communication system that is capable of reducing the effect of interference on a data signal. See Kleider, col. 1, lines 48-50. The system monitors a spectral makeup within a frequency band of interest and varies a transmit signal parameter based on the detected spectral conditions. See Kleider, col. 2, lines 17-21. Kleider discloses a system that "uses the detected spectrum to determine how to adjust the power level and/or processing gain of its transmit signal so that it does not interfere with other systems in the area[.]" See Kleider, col. 2, lines 26-28 (emphasis added). A transmit parameter determination unit 214 uses spectral based data from a second communication unit 204. A spectrum analysis unit 218 within the second communication unit 204 monitors the spectral profile of the channel 206 independent of the transmitted data. See Kleider, col. 3, lines 20-45 (emphasis added), and Fig. 1. Information

Serial No. 09/980,809 Response dated December 15, 2008 Response to Office Action dated September 17, 2008

indicative of the spectral profile of the channel 206 is transferred from the spectral analysis unit 218 to the transmit parameter determination unit 214. See Kleider, col. 3, lines 46-48.

Independent claims 4, 8 and 12-14 of the present application have now been amended so as to recite evaluating "digital quality data of a received high frequency digital signal." Support for the amendment may be found in the Specification at, for example, in originally-filed paragraphs 0002-03. It is respectfully submitted that Kleider does not disclose evaluating digital quality data of a received high frequency digital signal. In contrast, Kleider merely describes obtaining a spectral (i.e., frequency) profile of a channel, and transferring information indicative of that spectral profile to a transmit parameter determination unit 214. See Kleider, col. 3, lines 20-48. A person of ordinary skill in the art would understand that a spectral profile of a channel relates to power level, processing gain, and noise levels across a frequency band (see Kleider, column 2, lines 21-30), and not to the digital quality (for example, bit error rates, etc.) of a received digital signal. Kleider nowhere discloses evaluating the digital quality data of a received high frequency digital signal, as recited in independent claims 4, 8 and 12-14. Therefore, Kleider fails to disclose each and every element of independent claims 4, 8 and 12-14.

Because Kleider fails to disclose at least the above-recited features of independent claims 4, 8 and 12-14, Kleider cannot anticipate any of their dependent claims.

Reconsideration and withdrawal of the rejections of claims 4, 6-8, and 10-14 under 35 U.S.C. § 102(e) based on Kleider is respectfully requested.

CONCLUSION

In view of the foregoing it is believed that claims 4, 6-8, and 10-14 are in condition for allowance and it is respectfully requested that the application be reconsidered and that all pending claims be allowed and the case passed to issue.

If there are any other issues remaining which the Examiner believes could be resolved through a Supplemental Response or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned at the telephone number indicated below.

No fees are believed to be due with the filing of this response. In the event of a fee discrepancy, please charge any fees due in connection with this filing to Deposit Account No. 04-0100 referencing Docket No. 20811/0204775-USO.

Dated: December 15, 2008

Respectfully submitted,

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